

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AMAZON.COM SERVICES LLC,

Petitioner,

v.

DAVID BARSKY,

Respondent.

No. 2:20:cv-00647-JCC

**UNOPPOSED MOTION FOR
ENTRY OF JUDGMENT BY
CONFESSION**

Noted on Motion Calendar:
May 8, 2020

Petitioner Amazon.com Services LLC (“Amazon”) submits this Unopposed Motion for Entry of Judgment by Confession against Respondent David Barsky (“Barsky”).

I. BACKGROUND

On August 28, 2019, Barsky filed a demand for arbitration (the “Demand”) with the American Arbitration Association (the “AAA”), entitled *David Barsky and Best Warehouse Deals LLC v. Amazon.com, Inc.*, Case No. 01-18-0004-4731. The Demand alleged claims arising from Amazon’s suspension of Barsky’s third-party seller accounts for various violations of the parties’ contract and Amazon selling policies. Barsky sought damages of up to \$110,663.85, plus fees and costs. Amazon filed counterclaims against Barsky on September 12, 2019, for breach of Contract, violation of the Computer Fraud and Abuse Act (CFAA), and violation of the Washington Consumer Protection Act (CPA).

In its counterclaims, Amazon alleged Barsky defrauded Amazon and its customers by creating, purchasing, and operating a ring of covert seller accounts without authorization using

1 pseudonyms or other false credentials to deceive Amazon and its customers. Amazon also
 2 alleged it had received numerous complaints that Barsky used these fraudulent accounts to sell
 3 counterfeit products and that Barsky defrauded Amazon and its customers by fabricating
 4 invoices to misrepresent his inventory sourcing. Amazon sought dismissal of Barsky's claims,
 5 damages of up to \$75,000.00, and attorneys' fees and costs.

6 On January 17, 2019, the AAA duly appointed Ramina Dehkhoda-Steele as the Arbitrator
 7 in this matter. The parties held an evidentiary hearing on February 10, 2020. The locale of the
 8 arbitration was Seattle, Washington.

9 On March 12, 2020, Arbitrator Dehkhoda-Steele issued an interim award in Amazon's
 10 favor. Arbitrator Dehkhoda-Steele found that Barsky "was not able to provide any credible
 11 evidence or testimony to substantiate their claims" and dismissed Barsky's claims with
 12 prejudice. The arbitrator concluded that Amazon "presented credible testimony and
 13 documentary evidence on each of [its] counterclaims." The arbitrator ordered Barsky to pay
 14 Amazon \$60,000.00 on its counterclaims, plus attorneys' fees and costs. The arbitration award is
 15 included as **Exhibit A** to the Complaint in this action.

16 Pursuant to the arbitrator's award, Amazon filed a request for fees and costs in the
 17 amount of \$194,832.71 on April 3, 2020.

18 Before the issuance of a final award, the parties entered a confidential settlement
 19 agreement, in which Barsky agreed to entry of this judgment. The Parties' settlement agreement
 20 provides that Washington law governs.

21 II. BASIS FOR ENTRY OF JUDGMENT

22 Federal courts have authority to enter judgments by confession (*see F.D.I.C. v. Aaronian*,
 23 93 F.3d 636, 641 (9th Cir. 1996) (citing *D.H. Overmyer Co., Inc. v. Frick Co.*, 405 U.S. 174, 185
 24 (1972)), which are expressly permitted under Washington law. RCW 4.60.050. "A district court
 25 need not hold a hearing into the validity of a confession of judgment clause unless the debtor has
 26 pleaded facts which, if proven, would demonstrate that he did not voluntarily, intelligently and
 27 knowingly waive his right to prejudgment notice and hearing." *Aaronian*, 93 F.3d at 641

1 (citations omitted). Here, Barky has received the complaint in this action and waived service,
2 and he thus has notice. He has executed a confession of judgment, attesting that he did so
3 knowingly, intelligently, and voluntarily with the advice of counsel. Thus, no hearing is
4 necessary for the Court to enter the proposed judgment included with this motion.

5
6 DATED this 8th day of May, 2020.

7
8 DAVIS WRIGHT TREMAINE LLP
Attorneys for Amazon.com Services LLC

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10 By s/ John A. Goldmark

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that on May 8, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

I hereby certify that I caused the document to which this certificate is attached to be delivered to the following as indicated:

David Barsky
717 100th Terrace
Plantation, FL 33324

Messenger
Via Electronic Filing
Federal Express
First Class Mail ☒
Email

DATED and signed this 8th day of May, 2020 at Redmond, Washington.



Susan Bright